

BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case Number AC-2013-13

LAWRENCE K Y PON
240 F Twin Dolphin Drive
Redwood City, California 94065

Certified Public Accountant Certificate
Number 59490

Pon & Associates
Fictitious Name Permit Number 1214

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 29, 2013.
It is so ORDERED May 30, 2013.

Leslie J. Lehmann
FOR THE CALIFORNIA BOARD OF
ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GREGORY TUSS
Deputy Attorney General
4 State Bar Number 200659
1515 Clay Street, 20th Floor
5 Post Office Box 70550
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7 *Attorneys for Complainant*

8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case Number AC-2013-13

12 **LAWRENCE K Y PON**
240 F Twin Dolphin Drive
13 Redwood City, California 94065

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Certified Public Accountant Certificate**
Number 59490

15 **Pon & Associates**
16 Fictitious Name Permit Number 1214

17 Respondent.
18

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Complainant Patti Bowers is the Executive Officer of the California Board of
24 Accountancy (CBA), Department of Consumer Affairs. She brought this action solely in her
25 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
26 State of California, by Gregory Tuss, Deputy Attorney General.

27 2. Respondent Lawrence K Y Pon is represented in this proceeding by attorney Cindy
28 Truong, whose address is:

1 Cindy Truong
2 Wood Robbins LLP
3 One Post Street, Suite 800
4 San Francisco, California 94104

5 3. On or about August 1, 1991, the CBA issued Certified Public Accountant Certificate
6 Number 59490 to respondent. This certified public accountant certificate was in full force and
7 effect at all times relevant to the charges brought in Accusation Number AC-2013-13 and will
8 expire on January 31, 2014, unless renewed.

9 4. On or about September 5, 2002, the CBA issued Fictitious Name Permit Number
10 1214 to respondent. This fictitious name permit was in full force and effect at all times relevant
11 to the charges brought in Accusation Number AC-2013-13 and will expire on September 30,
12 2017, unless renewed.

13 JURISDICTION

14 5. Accusation Number AC-2013-13 was filed before the CBA, and is currently pending
15 against respondent. The accusation and all other statutorily required documents were properly
16 served on respondent on December 10, 2012. Respondent timely filed his Notice of Defense
17 contesting the accusation.

18 6. A copy of Accusation Number AC-2013-13 is attached as exhibit A and incorporated
19 in this Stipulated Settlement and Disciplinary Order by reference.

20 ADVISEMENT AND WAIVERS

21 7. Respondent has carefully read, fully discussed with counsel, and understands the
22 charges and allegations in Accusation Number AC-2013-13. Respondent has also carefully read,
23 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
24 Disciplinary Order.

25 8. Respondent is fully aware of his legal rights in this matter, including the right to a
26 hearing on the charges and allegations in the accusation; the right to be represented by counsel at
27 his own expense; the right to confront and cross-examine the witnesses against him; the right to
28 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
the attendance of witnesses and the production of documents; the right to reconsideration and

1 court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

3 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 **CULPABILITY**

6 10. Respondent admits the truth of each and every charge and allegation in Accusation
7 Number AC-2013-13.

8 11. Respondent agrees that his certified public accountant certificate and fictitious name
9 permit are subject to discipline and he agrees to be bound by the CBA's probationary terms as set
10 forth in the Disciplinary Order below.

11 **CONTINGENCY**

12 12. This stipulation shall be subject to approval by the CBA. Respondent understands
13 and agrees that counsel for complainant and the staff of the CBA may communicate directly with
14 the CBA regarding this stipulation and settlement, without notice to or participation by
15 respondent or his counsel. By signing the stipulation, respondent understands and agrees that he
16 may not withdraw his agreement or seek to rescind the stipulation prior to the time the CBA
17 considers and acts upon it. If the CBA fails to adopt this stipulation as its Decision and Order, the
18 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
19 paragraph; it shall be inadmissible in any legal action between the parties; and the CBA shall not
20 be disqualified from further action by having considered this matter.

21 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
22 and Disciplinary Order, including facsimile signatures, shall have the same force and effect as the
23 originals.

24 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
25 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
26 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
27 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

28 ///

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 15. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the CBA may, without further notice or formal proceeding, issue and enter the following
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Certified Public Accountant Certificate Number 59490.
8 issued to respondent Lawrence K Y Pon is revoked. However, the revocation is stayed and
9 respondent is placed on probation for three (3) years on the following terms and conditions:

10 1. **Obey All Laws**

11 Respondent shall obey all federal, California, other states' and local laws, including those
12 rules relating to the practice of public accountancy in California.

13 2. **Cost Reimbursement**

14 Respondent shall reimburse the CBA \$7,500.00 for its investigation and prosecution costs.
15 The payment shall be made within 90 days of the date the CBA's decision is final.

16 3. **Submit Written Reports**

17 Respondent shall submit, within 10 days of completion of the quarter, written reports to the
18 CBA on a form obtained from the CBA. The respondent shall submit, under penalty of perjury,
19 such other written reports, declarations, and verification of actions as are required. These
20 declarations shall contain statements relative to respondent's compliance with all the terms and
21 conditions of probation. Respondent shall immediately execute all release of information forms
22 as may be required by the CBA or its representatives.

23 4. **Personal Appearances**

24 Respondent shall, during the period of probation, appear in person at interviews/meetings as
25 directed by the CBA or its designated representatives, provided such notification is accomplished
26 in a timely manner.

27 5. **Comply With Probation**

28 Respondent shall fully comply with the terms and conditions of the probation imposed by

1 the CBA and shall cooperate fully with representatives of the CBA in its monitoring and
2 investigation of the respondent's compliance with probation terms and conditions.

3 **6. Practice Investigation**

4 Respondent shall be subject to, and shall permit, a practice investigation of the respondent's
5 professional practice. Such a practice investigation shall be conducted by representatives of the
6 CBA, provided notification of such review is accomplished in a timely manner.

7 **7. Comply With Citations**

8 Respondent shall comply with all final orders resulting from citations issued by the
9 California Board of Accountancy.

10 **8. Tolling of Probation for Out-of-State Residence/Practice**

11 In the event respondent should leave California to reside or practice outside this state,
12 respondent must notify the CBA in writing of the dates of departure and return. Periods of non-
13 California residency or practice outside the state shall not apply to reduction of the probationary
14 period, or of any suspension. No obligation imposed in this Stipulated Settlement and Order,
15 including requirements to file written reports, reimburse the CBA costs, and make restitution to
16 consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or
17 practice except at the written direction of the CBA.

18 **9. Violation of Probation**

19 If respondent violates probation in any respect, the CBA, after giving respondent notice and
20 an opportunity to be heard, may revoke probation and carry out the disciplinary order that was
21 stayed. If an accusation or a petition to revoke probation is filed against respondent during
22 probation, the CBA shall have continuing jurisdiction until the matter is final, and the period of
23 probation shall be extended until the matter is final.

24 The CBA's Executive Officer may issue a citation under California Code of Regulations,
25 title 16, section 95, to a licensee for a violation of a term or condition contained in a decision
26 placing that licensee on probation.

27 **10. Completion of Probation**

28 Upon successful completion of probation, respondent's license will be fully restored.

1 **11. Ethics Continuing Education**

2 Respondent shall complete four hours of continuing education in course subject matter
3 pertaining to the following: a review of nationally recognized codes of conduct emphasizing how
4 the codes relate to professional responsibilities; case-based instruction focusing on real-life
5 situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical
6 sensitivity, and consumer expectations (within a given period of time or prior to resumption of
7 practice). Courses must be a minimum of one hour as described in California Code of
8 Regulations, title 16, section 88.2. (Courses will be passed prior to resumption of practice where
9 license has been suspended or where otherwise appropriate.) This ethics continuing education
10 shall be in addition to continuing education requirements for relicensing.

11 These continuing professional education courses shall be completed within 12 months of
12 the date the CBA's decision is final. If respondent fails to complete said courses within the time
13 period provided, respondent shall so notify the CBA and shall cease practice until respondent
14 completes said courses, has submitted proof of same to the CBA, and has been notified by the
15 CBA that he may resume practice. This shall be in addition to continuing education requirements
16 for relicensing.

17 Failure to satisfactorily complete the required courses as scheduled or failure to complete
18 same no later than 100 days prior to the termination of probation shall constitute a violation of
19 probation.

20 **12. Continuing Education Courses**

21 Respondent shall complete and provide proper documentation of 16 hours' continuing
22 professional education courses. These continuing professional education courses shall be
23 completed within 12 months of the date the CBA's decision is final. This shall be in addition to
24 continuing education requirements for relicensing.

25 Failure to satisfactorily complete the required courses as scheduled or failure to complete
26 same no later than 100 days prior to the termination of probation shall constitute a violation of
27 probation.

28 ///

1 13. **Administrative Penalty**

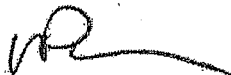
2 Respondent shall pay to the CBA an administrative penalty in the amount of \$2,500.00 for
3 violation of section 5100, subdivisions (c) and (i), of the California Accountancy Act. The
4 payment shall be made within 90 days of the date the CBA's decision is final.

5 **ACCEPTANCE**

6 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
7 discussed it with my attorney, Cindy Truong. I understand the stipulation and the effect it will
8 have on my certified public accountant certificate and fictitious name permit. I enter into this
9 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
10 to be bound by the Decision and Order of the California Board of Accountancy.

11
12 DATED:

4-19-13

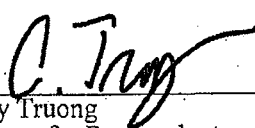


LAWRENCE K Y PON
Respondent

14 I have read and fully discussed with respondent Lawrence K Y Pon the terms and
15 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
16 I approve its form and content.

17 DATED:

4/19/13



Cindy Truong
Attorney for Respondent

19 ///

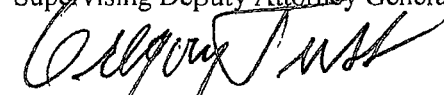
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

Dated: 4.22.13

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General



GREGORY TUSS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation Number AC-2013-13

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GREGORY TUSS
Deputy Attorney General
4 State Bar Number 200659
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12 **LAWRENCE K Y PON**
240 F Twin Dolphin Drive
13 **Redwood City, California 94065**

A C C U S A T I O N

14 **Certified Public Accountant Certificate**
15 **Number 59490**

16 **Pon & Associates**
Fictitious Name Permit Number 1214

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Complainant Patti Bowers brings this Accusation solely in her official capacity as the
22 Executive Officer of the California Board of Accountancy (CBA), Department of Consumer
23 Affairs.

24 2. On or about August 1, 1991, the CBA issued Certified Public Accountant Certificate
25 Number 59490 to respondent Lawrence K Y Pon. This certified public accountant certificate was
26 in full force and effect at all times relevant to the charges brought in this Accusation and will
27 expire on January 31, 2014, unless renewed.

28 ///

1 3. On or about September 5, 2002, the CBA issued Fictitious Name Permit Number
2 1214 to respondent. This fictitious name permit was in full force and effect at all times relevant
3 to the charges brought in this Accusation and will expire on September 30, 2017, unless renewed.

4 **JURISDICTION**

5 4. This Accusation is brought before the CBA under the authority of the following laws.
6 All section references are to the Business and Professions Code unless otherwise indicated.

7 5. Section 118, subdivision (b), provides:

8 “The suspension, expiration, or forfeiture by operation of law of a license issued by a board
9 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
10 of a court of law, or its surrender without the written consent of the board, shall not, during any
11 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
12 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
13 provided by law or to enter an order suspending or revoking the license or otherwise taking
14 disciplinary action against the licensee on any such ground.”

15 6. Section 5050.1, subdivision (a), provides:

16 “Any person that engages in any act that is the practice of public accountancy in this state
17 consents to the personal, subject matter, and disciplinary jurisdiction of the board. This
18 subdivision is declarative of existing law.”

19 7. Section 5109 provides:

20 “The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or
21 other authority to practice public accountancy by operation of law or by order or decision of the
22 board or a court of law, the placement of a license on a retired status, or the voluntary surrender
23 of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with
24 any investigation of or action or disciplinary proceeding against the licensee, or to render a
25 decision suspending or revoking the license.”

26 ///

STATUTORY AUTHORITY

8. Section 5100 provides, in pertinent part:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

...

"(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

...

"(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

...

"(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind."

9. California Code of Regulations, title 16, section 52, provides, in pertinent part:

"(a) A licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days. The response shall include making available all files, working papers and other documents requested.

"(b) A licensee shall respond to any subpoena issued by the Board or its executive officer or the assistant executive officer in the absence of the executive officer within 30 days and in accordance with the provisions of the Accountancy Act and other applicable laws or regulations."

10. California Code of Regulations, title 16, section 58, provides:

"Licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards."

FACTUAL BACKGROUND

16. G.² engaged respondent to prepare his 2007 tax returns. On or about June 30, 2008, respondent prepared and filed G.'s tax returns with the Internal Revenue Service (IRS). The tax returns included deductions totaling approximately \$6103.00 for moving expenses from G.'s relocation from California to Utah.

17. On or about December 17, 2010, the IRS notified G. that approximately \$2761.00 of his deductions for moving expenses were disallowed and that he owed approximately \$822.00 in back taxes and interest. The disallowed expenses included, but were not limited to, meals during the move and expenses outside of the time frame of the move.

18. On the same day, G. informed respondent of the IRS notification and assessment. Respondent asked G. to send him a copy of the notification so that he could address the assessment with the IRS. Respondent also asked for G.'s records and receipts for his moving expenses, as well as any other documentation he sent to the IRS. G. sent respondent all the documents he requested, which respondent acknowledged receiving on or about January 12, 2011.

19. After January 12, G. tried unsuccessfully to contact respondent to find out whether he had responded to the IRS. On February 11, 2011, G. received a notice of deficiency from the IRS and immediately notified respondent. He also asked again if respondent had addressed the assessment with the IRS.

20. G. never heard from respondent again. G. ultimately paid the IRS assessment (and continuing interest) of approximately \$825.62 on February 23, 2011.

21. On or about September 7, 2011, G. filed a complaint with the CBA. On or about November 3, 2011, the CBA sent a certified letter to respondent at his address of record asking for his response to G.'s complaint. The letter was signed as received on November 4, 2011, but respondent did not reply to the CBA.

///

² The victim's name will be released pursuant to a discovery request.

1 22. On or about January 30, 2012, the CBA telephoned respondent, who said that he
2 would respond immediately to G.'s complaint. The CBA also emailed to respondent its letter
3 dated November 4, 2011, and informed respondent that his reply was due on February 7, 2012.
4 Respondent did not contact the CBA.

5 23. On March 6, 2012, the CBA sent a subpoena by certified mail to respondent ordering
6 him to send his response to G.'s complaint by April 6, 2012. This subpoena was signed as
7 received on March 8, 2012. Respondent did not submit a response to the CBA, and has never
8 contacted the CBA about this matter.

9 **FIRST CAUSE FOR DISCIPLINE**
10 **Gross Negligence – Failure to Deduct Correct Moving Expenses**
 Bus. & Prof. Code, § 5100, subd. (c)

11 24. The allegations of paragraphs 16-23 are realleged and incorporated by reference as if
12 fully set forth.

13 25. Respondent has subjected his certified public accountant certificate and fictitious
14 name permit to disciplinary action under section 5100, subdivision (c), for gross negligence. As
15 set forth in paragraphs 16-23 above, respondent deducted moving expenses on G.'s 2007 tax
16 return which he knew or should have known were not deductible.

17 **SECOND CAUSE FOR DISCIPLINE**
18 **Gross Negligence – Failure to Respond to Client**
 Bus. & Prof. Code, § 5100, subd. (c)

19 26. The allegations of paragraphs 16-23 are realleged and incorporated by reference as if
20 fully set forth.

21 27. Respondent has subjected his certified public accountant certificate and fictitious
22 name permit to disciplinary action under section 5100, subdivision (c), for gross negligence. As
23 set forth in paragraphs 16-23 above, respondent failed to respond to G.'s repeated requests to
24 address the IRS notification, assessment, and notification of deficiency, and misrepresented to G.
25 that he would address the assessment with the IRS.

26 ///

THIRD CAUSE FOR DISCIPLINE
Repeated Negligent Acts
Bus. & Prof. Code, § 5100, subd. (c)

28. The allegations of paragraphs 16-23 are realleged and incorporated by reference as if fully set forth.

29. Respondent has subjected his certified public accountant certificate and fictitious name permit to disciplinary action under section 5100, subdivision (c), for repeated negligent acts. As set forth in paragraphs 16-23 above, respondent deducted moving expenses on G.'s 2007 tax return which he knew or should have known were not deductible; failed to respond to G.'s repeated requests to address the IRS notification, assessment, and notification of deficiency; and misrepresented to G. that he would address the assessment with the IRS.

FOURTH CAUSE FOR DISCIPLINE
Willful Failure to Respond to CBA's Inquiry
Bus. & Prof. Code, § 5100, subd. (g); Cal. Code Regs., tit. 16, § 52, subd. (a)

30. The allegations of paragraphs 16-23 are realleged and incorporated by reference as if fully set forth.

31. Respondent has subjected his certified public accountant certificate and fictitious name permit to disciplinary action under section 5100, subdivision (g), and California Code of Regulations, title 16, section 52, subdivision (a), for willful failure to respond to the CBA's inquiry. As set forth in paragraphs 16-23 above, respondent failed to reply within 30 days to the CBA's requests for his response to G.'s complaint.

FIFTH CAUSE FOR DISCIPLINE
Willful Failure to Respond to CBA's Subpoena
Bus. & Prof. Code, § 5100, subd. (g); Cal. Code Regs., tit. 16, § 52, subd. (b)

32. The allegations of paragraphs 16-23 are realleged and incorporated by reference as if fully set forth.

33. Respondent has subjected his certified public accountant certificate and fictitious name permit to disciplinary action under section 5100, subdivision (g), and California Code of Regulations, title 16, section 52, subdivision (b), for willful failure to respond to the CBA's subpoena. As set forth in paragraphs 16-23 above, respondent failed to reply within 30 days to the CBA's subpoena.

SIXTH CAUSE FOR DISCIPLINE
Breach of Fiduciary Duty
Bus. & Prof. Code, § 5100, subd. (i)

34. The allegations of paragraphs 16-23 are realleged and incorporated by reference as if fully set forth.

35. Respondent has subjected his certified public accountant certificate and fictitious name permit to disciplinary action under section 5100, subdivision (i), for breach of fiduciary duty. As set forth in paragraphs 16-23 above, respondent failed to respond to G.'s repeated requests to address the IRS notification, assessment, and notification of deficiency, and misrepresented to G. that he would address the assessment with the IRS.

PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the CBA issue a decision:

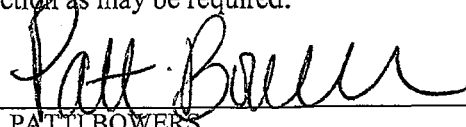
1. Revoking or suspending or otherwise imposing discipline upon Certified Public Accountant Certificate Number 59490 issued to Lawrence K Y Pon;

2. Revoking or suspending or otherwise imposing discipline upon Fictitious Name Permit Number 1214 issued to Pon and Associates;

3. Ordering Lawrence K Y Pon to pay the CBA the reasonable costs of the investigation and enforcement of this case as provided by statute; and

4. Taking such other and further action as may be required.

DATED: November 30, 2012


PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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